

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

THE PEOPLE

*PLAINTIFF
AND RESPONDENT*

VS

STEVE KENT BADUE

*DEFENDANT
AND
APPELLANT*

COURT OF APPEAL NO.:

VOL. 1 of **1**

PAGES 1 thru **106**

CLERK'S TRANSCRIPT ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA.

SUPERIOR COURT NUMBER: CC241061

HONORABLE RISE J. PICHON, JUDGE

APPEARANCES

ATTORNEY GENERAL
455 GOLDEN GATE AVENUE
ROOM 11000
SAN FRANCISCO, CA 94102

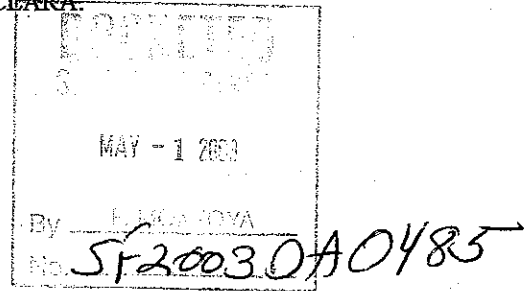
SIXTH DISTRICT APPELLATE PROGRAM
100 NORTH WINCHESTER BLVD, SUITE 310
SANTA CLARA, CA 95050

COUNSEL FOR PLAINTIFF
AND RESPONDENT

COUNSEL FOR DEFENDANT
AND APPELLANT

NOTICE OF APPEAL FILED March 6, 2003

NOTICE OF COMPLETION APR 25 2003



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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE LINDA R. CONDRON, JUDGE

---oOo---

ORIGINAL

The People of the State
of California
Plaintiff,
vs.
Steve Badue,
Defendant.

Case No. CC241061
Charges: PC 290(g) (2)

---oOo---

OCT 11 2002

RECEIVED
CLERK OF SUPERIOR COURT
COUNTY OF SANTA CLARA
By: *M. Anderson*

REPORTER'S TRANSCRIPT OF THE PROCEEDINGS
PRELIMINARY HEARING
October 2, 2002

A P P E A R A N C E S:

For the Plaintiff: ✓ OFFICE OF THE DISTRICT ATTORNEY
BY: Melvin Anderson,
Deputy District Attorney

For the Defendant: ✓ OFFICE OF THE PUBLIC DEFENDER
BY: John Overton,
Deputy Public Defender

Julie T. Serna
Official Court Reporter
CSR# 7890

---oOo---

JULIE T. SERNA, CSR 7890

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2 PEOPLE'S WITNESSES

3 Francis Gallagos

4 Direct Examination by Mr. Anderson

3

5 Cross-Examination by Mr. Overton

7

6
7 ---oOo---

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10 INDEX OF EXHIBITS

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12 PEOPLE'S EXHIBITS

IDENT.

ADMIT.

| | | | |
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| 13 1 | Document | 5 | 13 |
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20
21
22 ---oOo---

1 San Jose, California October 2, 2002

2 PROCEEDINGS:

3 THE COURT: All right. Let's proceed then with
4 the matter of the People versus Badue. And are there any
5 matters that we need to address, counsel, before we begin
6 the presentation of evidence in this case?

7 All right. Hearing none, Mr. Anderson, call your
8 first witness.

9 MR. ANDERSON: Francis Gallagos.

10 FRANCIS GALLAGOS,
11 called as a witness on behalf of the People, being first
12 duly sworn, was examined and testified as follows:

13 THE COURT: Please have a seat on the witness
14 stand and adjust that microphone. Make sure to speak
15 directly into it, and tell us your full name and spell it
16 for my court reporter, please.

17 THE WITNESS: Thank you. My name is Francis
18 Gallagos. Might first name is F-r-a-n-c-i-s. My last
19 name is G-a-l-l-a-g-o-s.

20 THE COURT: Thank you. And you may proceed,
21 counsel.

22 DIRECT EXAMINATION

23 Q (BY MR. ANDERSON) By whom are you employed?

24 A City of San Jose Police Department.

25 Q And what is your title?

26 A Custodian of records.

27 Q How long have you been custodian of records?

28 A Approximately three years.

1 Q And are you familiar with the agency's procedures for
2 creating and maintaining sex offender registration
3 records?

4 A Yes, I am.

5 Q Is that part of your duties and responsibilities?

6 A Yes.

7 Q Are the sex offender registration records created and
8 maintained in the ordinary course of business in your
9 agency?

10 A Yes, they are.

11 Q Who is responsible for creating and maintaining those
12 registration records?

13 A The fingerprint department is responsible for
14 creating the records while I maintain them.

15 Q Are these records made at or near the time the
16 registrant comes in to register or when the agency
17 receives a written change of address?

18 A Yes.

19 Q How are the registration records kept on file?

20 A They are filed by last name first.

21 Q Does your agency rely on the accuracy of these
22 records in advising your police officers as well as other
23 law enforcement agencies as to whether someone is in
24 compliance with the sex offender registration laws?

25 A Yes.

26 Q Did you check your sex offender registration records
27 for a person named Steve, no middle initial, Badue,
28 B-a-d-u-e?

1 A Yes, I did.

2 Q And what did you find?

3 A A registration for the SS 8102.

4 Q And did you also -- is there also in his records a
5 statement of no residence?

6 A Yes, there is.

7 Q Do you have those with you?

8 A Yes, I do.

9 MR. ANDERSON: Your Honor, at this point I
10 would like marked as People's 1 a form SS 8102 dated
11 6-18-2000.

12 THE COURT: Form 8102 will be People's 1 for
13 identification.

14 (People's Exhibit Number 1, document, marked for
15 identification.)

16 MR. ANDERSON: People's Exhibit 2 would be a
17 statement of no residence for a person named Steve Badue
18 dated June 18th of 2001.

19 THE COURT: All right. The non-residence status
20 form will be People's 2 for identification.

21 (People's Exhibit Number 2, document, marked for
22 identification.)

23 Q (BY MR. ANDERSON) Do you have any registration forms
24 for that person, Steven Badue subsequent to June 18th of
25 2001?

26 A No.

27 Q When is the defendant's birthday?

28 A If I may refer to my form? It is 1-4 of 1966.

1 Q Do you have a photograph that's on file with your
2 agency of Steve Badue?

3 A Yes, I do.

4 Q Do you have it with you?

5 A Yes, I do.

6 Q Were those kept in your Megan's file records?

7 A Yes.

8 MR. ANDERSON: Your Honor, marked as People's
9 Exhibit Number 3 would be a photograph of a person named
10 Steve B-a-d-u-e.

11 THE COURT: People's 3, the photograph of Mr.,
12 B-a-d-u-e, Badue.

13 (People's Exhibit Number 3, photograph, marked
14 for identification.)

15 Q (BY MR. ANDERSON) Did you research your records
16 that -- your agency's records for a determination of
17 whether or not the person named Steven Badue had
18 registered anywhere else in California?

19 A Yes, I did.

20 Q And how did you do that?

21 A I did a database check on our state California data
22 base called VCIN. That's V-C-I-N.

23 Q And are you required at San Jose to input
24 registration which occurs in your jurisdiction into that
25 record?

26 A Yes.

27 Q On a regular basis?

28 A That's correct.

1 Q And you rely on the record that you retrieved from
2 that database to determine whether or not a person has
3 left the jurisdiction and properly registered in other
4 jurisdictions in California?

5 A Yes, we do.

6 Q And what was the result of your search of that
7 record?

8 A No results.

9 MR. ANDERSON: Nothing further, Your Honor.

10 THE COURT: No further questions of this
11 witness?

12 MR. ANDERSON: No further questions.

13 THE COURT: All right. Cross-examination,
14 counsel?

15 MR. OVERTON: Yes, Your Honor. Thank you.

16 THE COURT: Yes.

17 CROSS-EXAMINATION

18 Q (BY MR. OVERTON) Good morning.

19 A Good morning.

20 Q You've testified that you have a registration form,
21 an 8102 form; is that correct?

22 A That's correct.

23 Q Signed by Mr. Badue; is that correct?

24 A Correct.

25 Q And when was that signed?

26 A 6-18 of '01.

27 Q At that time Mr. Badue was a resident of Santa Clara
28 County?

1 A According to the form, yes.
2 Q Now, is registration required in one county at a
3 time?
4 A That's correct.
5 Q So only the county of which you reside?
6 A Correct.
7 Q And you further testified that you have nothing else
8 further signed from Mr. Badue aside from the two forms you
9 testified to earlier?
10 A That's correct.
11 Q If a person is to be in this county and then leave
12 the county is there a requirement to register in the new
13 county?
14 A Yes.
15 Q And they also are required to register in the old
16 county as well?
17 A Yes.
18 Q Now, is it your testimony that once a person
19 registers in a second county that person also has to go
20 back to the first county and say I've left?
21 A That's correct.
22 Q Is there -- to your knowledge there's no mechanism
23 for the new county to alert the old county?
24 A No.
25 Q Or the second to alert the first?
26 A No.
27 Q You mentioned that -- the District Attorney asked you
28 about this defendant's birthday. What's the defendant's

1 birthday?

2 A It's, 290 registrants are to register five days
3 within the birthday.

4 Q And this gentleman's birthday is when?

5 A January the 4th, 1966.

6 Q You also mentioned that you use a system called VCIN,
7 is that an acronym?

8 A That's correct.

9 Q What are the letters?

10 A Violent Crime Information Network is the complete
11 name.

12 Q VCIN. Okay. What is the purpose of VCIN?

13 A The purpose of VCIN is for all agencies to do a check
14 and see if the individual has moved from different
15 agencies.

16 Q And how would information -- I'm using first and
17 second counties -- first being the original, second one
18 being the one the person had moved to, say, county number
19 two checks VCIN and finds that person has registered and
20 then it is that county's duty to write that down
21 somewhere, or how does that work? How does VCIN -- how
22 effectively do they use VCIN in the second county?

23 A Well, it really depends on what you are doing. For
24 example, if agency number one is going to violate the 290,
25 before he does that or she, whoever is doing that, they
26 need to confirm that this person has not registered in a
27 different county by checking VCIN. They will confirm
28 whether he or she has registered in this new county.

1 Q Okay. I'm sorry. I was confusing the first and
2 second. You were on the the first county, but you cleared
3 it up for me. Thank you.

4 As to the first county, if a person is registered in
5 VCIN does that not go for notice of the first county? Is
6 the person still required even if the person's checked
7 VCIN and saw the registration, is the person still
8 required to go back to the first county? I know that's a
9 long question and I apologize.

10 A No problem.

11 One of the regulations for the 8102 form, I think
12 it's somewhere in the form, it does state that the
13 individual should go to the police agency where they are
14 registered to notify them that they are leaving that
15 county and moving into a different county.

16 Q You use the word "should," was that -- did you have
17 any intention in using that word "they should" go back,
18 must they go back or is recommended they go back?

19 A The form says it's a requirement.

20 Q So the first county that checks the VCIN and sees
21 that the person is registered, they still may violate that
22 person even though they know they're registered in another
23 county?

24 A I'm not quite sure as far as that regulation goes.

25 Q So it's possible that VCIN can serve as notice to the
26 first county that the person is registered somewhere else?

27 A That's correct.

28 MR. OVERTON: One second, Your Honor, please.

1 Q (BY MR. OVERTON) To your knowledge has Mr. Badue
2 suffered any failure to register convictions in another
3 county as a result of this case?

4 A I'm not sure.

5 MR. OVERTON: No more questions, Your Honor.

6 THE COURT: All right. Any redirect, Mr.
7 Anderson?

8 MR. ANDERSON: No, Your Honor.

9 THE COURT: All right. May this witness be
10 excused?

11 MR. ANDERSON: Yes, Your Honor.

12 MR. OVERTON: Yes, Your Honor.

13 THE COURT: Thank you.

14 You may be excused. You may be step down at this
15 time.

16 MR. ANDERSON: Your Honor, at this point I would
17 like marked as People's Exhibit Number 5 a proof of prior
18 conviction for a person named as the defendant, Docket
19 Number 208774 as charged.

20 THE COURT: All right. The record of conviction
21 in Docket 208774 may be marked as People's 5 -- 4, not
22 five.

23 THE CLERK: I don't have 4.

24 MR. ANDERSON: I have one as the 8102. 2 as
25 the --

26 THE COURT: The other form.

27 MR. ANDERSON: -- date of no residence.

28 3 as photograph. 4 as --

1 THE COURT: Right.
2 MR. ANDERSON: You're right. You're correct.
3 I'm sorry.
4 THE COURT: Conviction and the aforementioned
5 document.
6 (People's Exhibit Number 4, document, marked for
7 identification.)
8 MR. ANDERSON: Okay. 5 would be a proof of
9 conviction for the proof of defendant in docket 182210 as
10 charged in the Complaint.
11 THE COURT: I'm sorry that was 182210?
12 MR. ANDERSON: Yes, Your Honor.
13 THE COURT: Yes, proof in conviction.
14 MR. ANDERSON: Would be 182210.
15 THE COURT: Thank you. Will be People's 5 for
16 identification.
17 (People's Exhibit Number 5, document, marked for
18 identification.)
19 MR. ANDERSON: People's 6 would be a proof of
20 conviction for the defendant in docket C934945 as charged
21 in the Complaint, and 7 would be prior conviction for the
22 defendant in San Joaquin docket SC0624238 charged in the
23 Complaint. All of those are certified.
24 THE COURT: All right. Certified conviction
25 docket C934945 will be marked as People's 6 for
26 identification and then Docket SC0624238 People's 7 for
27 identification.
28 (People's Exhibits Numbers 6 and 7, documents,

1 marked for identification.)

2 THE COURT: Anything further?

3 MR. ANDERSON: Yes, one more, Your Honor.

4 Next in order, People's Exhibit 8 would be a 969(b)
5 packet for the defendant which -- a chronology which
6 indicates the defendant was in custody between June 18th
7 of 2001 and October 11th of 2001, and that certified copy
8 is certified as of March 14th, 2002, and that he was
9 released on October 11th of 2001.

10 THE COURT: As shown to the defense, the
11 defendant's 969(b) packet will be People's 8 for
12 identification.

13 (People's Exhibit Number 8, documents, marked
14 for identification.)

15 MR. ANDERSON: With the admission of the
16 People's Exhibits we would rest.

17 THE COURT: Are you moving the exhibits into
18 evidence at this time?

19 MR. ANDERSON: Yes.

20 THE COURT: Do you have any objection, counsel?

21 MR. OVERTON: No, Your Honor.

22 THE COURT: All right. People's 1 through 8
23 will be admitted at this time.

24 (People's Exhibits Numbers 1 through 8, admitted
25 into evidence.)

26 THE COURT: Any evidence on behalf of the
27 defense?

28 MR. OVERTON: That would be for purposes of this

1 hearing only, Your Honor, no thank you.

2 THE COURT: All right. Give me a moment to
3 examine the exhibits.

4 All right. Anything further from either side?

5 MR. ANDERSON: No, Your Honor.

6 MR. OVERTON: No, Your Honor.

7 THE COURT: Any comments, counsel?

8 MR. OVERTON: No, Your Honor.

9 THE COURT: All right. In this matter, based on
10 the evidence presented at the preliminary hearing I do
11 find there is sufficient cause to believe that the offense
12 committed or charged in the Complaint, specifically in
13 Count 1, a violation of Penal Code Section 290 Subdivision
14 (g)(2), a felony, failure to register on February 27,
15 2002, has been committed and that the defendant, Steve
16 Kent Badue, is guilty thereof. I order him held to answer
17 to that charge.

18 MR. OVERTON: Your Honor, excuse me, Your Honor,
19 he does indicate his middle name is not Kent.

20 THE DEFENDANT: Yeah, it is not.

21 THE COURT: It is not Kent, simply Steve Badue?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. That will be the order.

24 And the defendant is ordered to appear on Monday,
25 October 15th of this year at 1:30 in Department 24 for
26 arraignment and plea.

27 Parties stipulate that the exhibits may be released
28 to the People for safekeeping until the time of trial?

1 MR. OVERTON: Yes, Your Honor.
2 MR. ANDERSON: Yes.
3 THE COURT: Thank you.
4 MR. ANDERSON: October 15th?
5 THE COURT: That is what I said.
6 MR. ANDERSON: Thank you.
7 (Whereupon, the matter was continued to October
8 15th, 2002, at 1:30 p.m.)

9 ---oOo---

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SANTA CLARA)


4 I, JULIE T. SERNA, HEREBY CERTIFY: That the
5 foregoing is a full, true, and correct transcript of the
6 testimony given and proceedings had in the above-mentioned
7 action taken;

8 That it is a full, true, and correct transcript of
9 the evidence offered and received, acts and statements of the
10 Court, also all objections of counsel and all matters to
11 which the same relate;

12 That I reported the same in stenotype to the best
13 of my ability, being the duly appointed, qualified and acting
14 official stenographic reporter of said Court, and thereafter
15 transcribed the same into typewriting as herein appears.

16 In said capacity, I have adhered to Civil Code
17 of Procedure Section 237(A)(2), Sixth District Court of
18 Appeal miscellaneous order 96-2, by sealing, through
19 redaction, of all references to juror-identifying
20 information, including but not limited to names,
21 addresses, and telephone numbers.

22
23 Dated this 10-10-08.

24 
25 Julie T. Serna, CSR#7890
26 Official Court Reporter
27
28

---000---

JULIE T. SERNA, CSR 7890

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
San Jose FACILITY

PRELIMINARY EXAMINATION MINUTES, COMMITMENT CERTIFICATION

THE PEOPLE OF THE STATE OF CALIFORNIA

Case No. CC241061

VS.

Date: 10-02-02

Steve Badue
Defendant

Judge: Linda Pondron

CEN 02505160

Reporter: Julie Serna

APPEARANCES:

Deputy District Attorney Mel Anderson

Custody Status 1c \$100,000

Defendant and Attorney John Overton, PD

Interpreter for defendant

Interpreter for witness

Motion to exclude/admonish witness(s) granted/denied

PRELIMINARY EXAMINATION HELD
WITNESSES SWORN AND TESTIFIED:

Francis Gallagos

PEOPLE'S EXHIBITS: marked/admitted

- | | | | |
|---------------------------------------|-------------------------------------|----------------------------------|-------------------------------------|
| 1. <u>Copy Registration form 8102</u> | <input checked="" type="checkbox"/> | 6. <u>Cut copy Pr. C9349405</u> | <input checked="" type="checkbox"/> |
| 2. <u>Statement of no Residence</u> | <input checked="" type="checkbox"/> | 7. <u>Cut copy Pr. SC0624238</u> | <input checked="" type="checkbox"/> |
| 3. <u>Photo of Badue</u> | <input checked="" type="checkbox"/> | 8. <u>Cut copy Packet</u> | <input checked="" type="checkbox"/> |
| 4. <u>Cut copy Pr. 208774</u> | <input checked="" type="checkbox"/> | 9. _____ | <input type="checkbox"/> |
| 5. <u>Cut copy Pr. 182210</u> | <input checked="" type="checkbox"/> | 10. _____ | <input type="checkbox"/> |

DEFENDANT'S EXHIBITS: marked/admitted

- | | | | |
|----------|--------------------------|----------|--------------------------|
| A. _____ | <input type="checkbox"/> | F. _____ | <input type="checkbox"/> |
| B. _____ | <input type="checkbox"/> | G. _____ | <input type="checkbox"/> |
| C. _____ | <input type="checkbox"/> | H. _____ | <input type="checkbox"/> |
| D. _____ | <input type="checkbox"/> | I. _____ | <input type="checkbox"/> |
| E. _____ | <input type="checkbox"/> | J. _____ | <input type="checkbox"/> |

☐ Waives right to continuous Preliminary Examination. Continued to _____

☒ HELD TO ANSWER: It appearing to me from the testimony this day given before me on the preliminary examination of the above-named defendant, that the offense of a violation of section(s):

PC290(G)(2)

has been committed and that there is sufficient cause to believe the above-named defendant guilty thereof. I order that he/she be held to answer to same. ☐ Arming allegation(s) found true/not true. Enhancements found true/not true. ☐ Prior(s) found true/not true.

☐ Misdemeanor violation certified to Superior Court

☐ HOLDING DENIED as to:

☒ DEFENDANT ORDERED TO APPEAR IN SUPERIOR COURT on 10-15-02 at 1:30 D-24

☐ Defendant to remain out of custody on status indicated above.

☐ Cash Bail, Bond or SORP ordered transferred to Superior Court. ☒ Exhibits released.

☒ REMANDED to custody of DOC until next appearance. Bail \$ 100,000 -

☐ ORDERED RELEASED ☐ on O/R ☐ on S/O/R

I certify that the foregoing is a true and correct record of the proceedings had before me this date in said case.

DATED Oct. 2, 2002

I certify the foregoing is a true copy of the Judgement/Order rendered on the above date by the above-named Judge.

Clerk of the above named Court. By

Linda Pondron
JUDGE OF THE SUPERIOR COURT

Deputy

TO THE DOC: The foregoing certified copy of Judgment/Order in the above-entitled action is your authority for the execution thereof.

7685 REV 7/99 DISTRIBUTION: BLACK-JAIL, GREEN-FILE, BLUE-CJC, PURPLE-DA, BROWN-DEFENDANT

JAIL

SUPERIOR COURT OF CALIFOR. A
COUNTY OF SANTA CLARA
SAN JOSE FACILITY
COMPLAINT FOR ARREST WARRANT(S)
STEVE NMN BADUE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

STEVE NMN BADUE (1/4/1966),
aka STEVE KENT BADUE,
TRANSIENT,,
Defendant(s)

FELONY COMPLAINT

DA NO: 020305786

CEN

* SB WARR *

PFN: B QN 149

SLM #3447

EC 241001

FILED
MAR 04 2007
KIRI TORRE
Deputy County Clerk
County of Santa Clara

The undersigned is informed and believes that:

COUNT 1

On or about February 27, 2002, in the County of Santa Clara, State of California, the crime of FAILING TO REGISTER AT BIRTHDAY, WITH A PC 290 PRIOR CONVICTION OR JUVENILE ADJUDICATION, in violation of PENAL CODE SECTION 290(g)(2), a Felony, was committed by STEVE NMN BADUE who did having been previously convicted of a violation of Penal Code section 290 in the California Superior Court, Santa Clara County (208774), and while required to register under Penal Code section 290 for a violation of section 314.1 of the Penal Code, in the Superior / Municipal Court, Santa Clara and San Joaquin County (182210, C9349405, SC062423A), California, willfully failed, within 5 working days of his/her birthday, to update his/her registration with the chief of police of the city in which he/she temporarily resided, and, if he/she had no residence, was located, San Jose, including verifying his/her name and address(es), and temporary location(s), on a form as required by the Department of Justice.

PRIOR CONVICTION (PC 667.5(b))

It is further alleged within the meaning of Penal Code section 667.5(b) that prior to the commission of the offense(s) charged above, the defendant, STEVE NMN BADUE, was convicted of a felony:

Possession of a Controlled Substance, Health and Safety section 11350, California Superior Court, Santa Clara County (C9947075)

and, for that offense, the defendant served a prison term, which was separate from any other prison term alleged in this pleading, and since serving that term, the defendant has not remained free of both prison custody and the commission of an offense resulting in a felony conviction for a period of five years.

Further, attached and incorporated by reference are official reports and documents of a law enforcement agency which the complainant believes establish probable cause for the arrest of defendant STEVE NMN BADUE, for the above-listed crimes. Wherefore, A WARRANT OF ARREST IS REQUESTED.

Complainant therefore requests that the defendant(s) be dealt with according to law.

I certify under penalty of perjury that the above is true and correct.

Executed on March 1, 2002, in SANTA CLARA County, California.

Warrant received for service by:

on 3/5/02
Cash or Bond \$ 100,000

Robert L. Ambrose
JUDGE OF THE SUPERIOR COURT

R. MARTINEZ #2836 JLN #3412
Martinez 2836
(Martinez 2836)
SJPD (408) 277-4102 020500805 S
SEIDEL/ D293/ FELONY/ tv

ROBERT L. AMBROSE

SUPERIOR COURT OF CALIFORNI A
San Jose Facility

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

STEVE NMN BADUE (1/4/1966),
aka STEVE KENT BADUE,
TRANSIENT, ,

Defendant(s)

FELONY CASE SUMMARY

DA NO: 020305786

CEN

* SB WARR *

CASE SUMMARY

| <u>Count</u> | <u>Charge</u> | <u>Charge Range</u> | <u>Defendant</u> | <u>Allegation</u> | <u>Alleg. Effect</u> |
|--------------|-----------------------------|---------------------|------------------------------------|-------------------|----------------------|
| I | PC290(g)(2) Prior/Alleg: | 16-2-3 | STEVE NMN BADUE STEVE NMN BADUE | PC667.5(b) | 1 yr |

UPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

STEVE NMN BADUE (1/4/1966),
aka STEVE KENT BADUE,
UNKNOWN,,

Defendant(s)

10/15/02

DA NO 020305786

CEN

02505160 SB HELD 10/15/2002

INFORMATION NO. CC241061

FILED

OCT 10 2002

KIRK J. COOPER
County Clerk
By *[Signature]*

INFORMATION
SUMMARY

| Count | Charge | Charge Range | Defendant | Allegation | Alleg. Effect |
|-------|-----------------------------|--------------|------------------------------------|------------|---------------|
| 1 | PC290(g)(2) Prior/Alleg: | 16-2-3 | STEVE NMN BADUE STEVE NMN BADUE | PC667.5(b) | 1 yr |

The District Attorney of the County of Santa Clara, by this Information alleges that:

COUNT 1

On or about February 27, 2002, in the County of Santa Clara, State of California, the crime of FAILING TO REGISTER AT BIRTHDAY, WITH A PC 290 PRIOR CONVICTION OR JUVENILE ADJUDICATION, in violation of PENAL CODE SECTION 290(g)(2), a Felony, was committed by STEVE NMN BADUE who did having been previously convicted of a violation of Penal Code section 290 in the California Superior Court, Santa Clara County (208774), and while required to register under Penal Code section 290 for a violation of section 314.1 of the Penal Code, in the Superior / Municipal Court, Santa Clara and San Joaquin County (182210, C9349405, SC062423A), California, willfully failed, within 5 working days of his/her birthday, to update his/her registration with the chief of police of the city in which he/she temporarily resided, and, if he/she had no residence, was located, San Jose, including verifying his/her name and address(es), and temporary location(s), on a form as required by the Department of Justice.

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Possession of a Controlled Substance, Health and Safety section 11350, California Superior Court, Santa Clara County (C9947075)

and, for that offense, the defendant served a prison term, which was separate from any other prison term alleged in this pleading, and since serving that term, the defendant has not remained free of both prison custody and the commission of an offense resulting in a felony conviction for a period of five years.

Pursuant to Penal Code Sections 1054 through 1054.7, inclusive, the people request that, within 15 days, the defendant and/or his/her attorney disclose: (A) The names and addresses of persons, other than the defendant, he/she intends to call as witnesses at trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, and including the results of any physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer as evidence at the trial. (B) Any real evidence which the defendant intends to offer in evidence at the trial. This request is a continuing request, to cover not only all such material currently in existence, but all material which comes into existence to the conclusion of this case.

George W. Kennedy
District Attorney

By Steven Dick
Steven Dick
Deputy District Attorney

| | | |
|---|--|--|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 190 WEST HEDDING STREET MAILING ADDRESS: 190 WEST HEDDING STREET CITY AND ZIP CODE: SAN JOSE CA 95110 BRANCH NAME: HALL OF JUSTICE | | FOR COURT USE ONLY FILED OCT 15 2002 KIRI TORRE Court Executive Officer/Clerk Superior Court of Cal. County of Santa Clara BY <i>[Signature]</i> DEPUTY |
| PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: STEVE BADUE 0010 IN CUSTODY | | |
| FINGERPRINT FORM | | CASE NUMBER: CC241061 |

INSTRUCTIONS

Immediately following arraignment in superior court of a defendant charged with a felony or arraignment of a defendant by a municipal court judge sitting as a superior court judge, the court shall require the defendant to provide a right thumbprint on this form. In the event the defendant is convicted, this form shall be attached to the minute order reflecting the defendant's sentence and shall be permanently maintained in the court file. Please see Penal Code section 992 for further information, including when the defendant is physically unable to give a right thumbprint.

For a proper imprint and durable record, this form should be printed on paper that meets California Department of Justice specifications: a 99 pound white tab card or 100 pound white tab stock 0.0070 inch thick (0.0066 through 0.0074 inch is acceptable). Paper smoothness should be 100-140 sheffield units. The form should be printed with the grain left to right.

1. The box to the right contains the defendant's

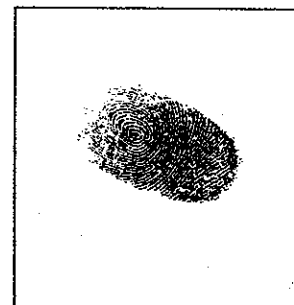
- ☒ right thumbprint
☐ other print (specify):

2. The print was taken on (date):

10/15/2002

3. The print was taken by

- a. Name: JOHNSON
 b. Position: DEPUTY
 c. Badge or serial No.: 1852



24

DISTRIBUTION: BLACK - FILE COPY, GREEN - DOC, BLUE - CJIC, PURPLE - DOR/PROBATION, BROWN - DEFENDANT

Superior Court of California
County of Santa Clara

Hall of Justice
Criminal Division
190 West Hedding Street
San Jose, California 95110

(EMPOWERED)
FILED

DEC 04 2002



KIRI TORRE
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY JANE LINN DEPUTY

Date: December 4, 2002

Dr. James Missett, Ph.D.
1187 University Drive
Menlo Park, CA 94025

*original to Doctor
with Police Rep &
Information*

IN RE: **APPOINTMENT AS MEDICAL EXAMINER
UNDER SECTION 1369(a) OF THE PENAL CODE**

SUBJECT: Case #CC241061

THE PEOPLE OF THE STATE OF CALIFORNIA VS. STEVE BADUE

Charge(s): PC 290(g)(2)
Attorney: Randy Danto
Custodial Status: IN

Interpreter Needs: N/A
CEN No.: 97002463
PFN No.: BQN149 M

Dear Doctor:

Please be advised that the Honorable Mailyn Pestarino Zecher, Judge of the Superior Court, duly appointed you to perform an examination upon the subject defendant pursuant to the above-cited section of the Penal Code of the State of California.

Pursuant to said examination, please file your report with the Court no later than 9:00 A.M. on Friday, December 20, 2002 in Department 29A. If you have already been appointed on this case, please contact the Court at (408) 299-3291. You will not be paid to conduct another report unless so ordered by the Court to do so.

Please include your conclusion as to this question which is before the court at this time:

A defendant is mentally incompetent for purposes of this chapter if, as a result of mental disorder, he/she is unable to understand the nature of the proceedings taken against him/her and to assist counsel in the conduct of a defense in a rational manner.

Thank you for your professional consideration.



Officially,
KIRI TORRE, Chief Executive Officer/Clerk

By: Jane E. Linn
Jane Linn, Deputy Courtroom Clerk

/jl
cc: File

NOTE: It is necessary to show this letter to the County Jail authorities to gain entrance.

DISTRIBUTION: BLACK - FILE COPY. GREEN - DOC. BLUE - CJIC. PURPLE - DOR/PROBATION. BROWN - DEFENDANT

L6 SUPERIOR COURT
 190 WEST HEDDING ST
 SAN JOSE, CA 95110
 PEOPLE VS. STEVE BADUE
 LKA. TRANSIENT
 JUDGE HON. HUGH F. MULLIN III
 REPORTER ~~CRONLEY~~
 DEF. ATTY. DANTO, RANDY D.A. D. SHEARER
 CHARGES F(001)PC290(G)(2)
 CASE NO. CC241061
 CEN 02505160
 DATE 12/24/2002 1:30 PM DEPT. 24
 01/04/1966 CAC0655444
 CLERK C. VIEIRA BQN149 M
 HEARING RECEIPT OF DOCTORS REPORTS
 AGENCY SJ-04313-2836 -MARTINEZ
 STATUS I-SET -100000 TW N
 APO
 VIOLATION DATE 02/27/2002

NEXT APPEARANCE

1-8-03 1:30 pm D24
☒ Defendant Present ☐ Not Present ☐ Atty Present ☐ AD ☐ PD / Legal Aide / Special App
☐ WFA ☐ Arr'd ☐ Amended complt ☐ Arr ☐ Plea ☐ ID ☐ Prob / Sent ☐ Interp
☐ PC977 Waiver ☐ Filed ☐ On file ☐ Bail / OR / SORP ☐ Rect Dr Rpt ☐ FAR ☐ Pretrial Services to Contact Gateway for Assmt
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ PTC ☐ S/B MTC ☐ Bail Feinstated ☐ Bail Exonerated
☐ Priors / Allegations / Enhancements Denied ☐ Further ☐ Jury ☐ CT ☐ PcoDef War Jury ☐ Forfeited Bond #
☐ TW ☐ TNW ☐ TW / WD ☐ for Sent ☐ Proof of ☐ Reassumption Filed ☐ Forfeiture Set Aside
☐ Ref / Appt PD / ADO ☐ Conflict Decl ☐ Ref'd ☐ Costs Within 30 Days to Court
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ SORP / OR ☐ Revoked ☐ Reinstated
☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ BW Ordered \$ ☐ Stayed
☐ Granted ☐ Den ☐ Subm ☐ OC ☐ Subm on rept ☐ Found ☐ BW Set Aside ☐ Recalled ☐ To Issue
☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Other:
☐ Prelim Waived ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Dismissal / Striking ☐ Subm time of sent

☐ Adv ☐ Max Pen ☐ Parole/Probation ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future serious felony prior ☐ PC12021 (gun)

☐ Waives Constit Rights ☐ Written Waiver filed ☐ PC17 REDUCTION ☐ Waives Arbuckde ☐ Harvey Stip

☐ COP PLEADS ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhs/priors (see below) ☐ Factual Basis found ☐ Findings stated

☐ Notice of Eligibility Filed ☐ DEJ Granted ☐ Rpt to DADS ☐ DEJ Rein ☐ DEJ Term ☐ Guilty Plea Rendered

☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ PROBATION DENIED ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ COURT

☐ Sentenced to State Prison/County Jail ☐ Sent Suspended ☐ COUNT \$ + PA \$ ☐ Purs HS11350d

☐ PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ + PA \$

☐ COURT ☐ FORMAL PROBATION GRANTED for Days / Mos / Yrs ☐ DPF / AIDS \$ + PA \$

☐ Report to APO within Days ☐ Upon Release ☐ Terminated ☐ DRF / RF \$ Add'l RF\$ Susp'd PC1202.45

☐ Commun Altern Program ☐ Perform hrs Volunteer Work ☐ DEJ \$ CTS PC 2900.5 \$

☐ Submit Search / Testing ☐ Educ / Voc Trng / Empl ☐ AEF \$ TOTAL DUE \$

☐ Not drive w/o valid DL & Ins ☐ DVPO issued / mod / term Exp ☐ ADPA \$ Committed @ \$ /Day

☐ Not own/possess deadly weapons ☐ Weapon ordered destroyed ☐ LAB \$ Consec/Conc to

☐ No contact w/victim or family / co-defs unless appr by APO ☐ PC1202.05 ☐ NC \$ Payments Granted / Modified

☐ No alcohol / drugs or where sold ☐ Restitution ☐ ASF / CPF \$ / Mo beginning

☐ Substance abuse, Domestic Violence, Psychological, Parenting cnsl / prgm ☐ AR \$ FINE STAYED

☐ PC296 (DNA) ☐ PC1202.1 (Aids Testing) ☐ Aids Education Program ☐ SHELTER \$ Fine Deemed Satisfied ☐ Commuted

☐ Other: ☐ DV \$ Vol Wk Hrs in Lieu of Fine

VOP: ☐ Arr'd VOP ☐ Admits/Denies Violation ☐ Court Finds VOP / No VOP ☐ ATTY \$ DSA thru APO / DOR / CRT ☐ Filed

☐ Prob Rein / Mod / Term / Revoked / Remains Revoked / Ext to ☐ P/INV \$ P/SUP \$ /Mo

☐ Original Terms & Conditions Except as Amended Herein ☐ CJAF \$ to

☐ Cotermious with ☐ No Further Penalties ☐ Restitution \$ to

JAIL/PRISON ☐ See Attachn't Pg for Add'l Orders, Charges, PC1385 Reasons ☐ Referred to VWAC ☐ As Determined APO / CRT

Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn County Jail

Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Total

30

CTS = ACT + ☐ PC4019 ☐ PC2933.1 = TOTAL DAYS TOTAL TERM

☐ Straight time ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ Except ☐ EMP/PSP/WF/ERP/DRP/Co Parole/NP

☐ Sent Deemed Srvd ☐ Rpt to Local Parole ☐ Adv of Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay/Surrender Transport to @ AM/PM or Sooner

☐ REMAIND-BAIL \$ ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ DOC TO CONTACT JAC FOR ASSMT

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC-DOC TO TRANSPORT FOR BALANCE OF JAIL

DISTRIBUTION: BLACK - FILE COPY, GREEN - DOC, BLUE - CJIC, PURPLE - DOR/PROBATION, BROWN - DEFENDANT

☒ Defendant Present ☐ Not Present ☒ Atty Present K. DAVID BY K. BANKS AD / PD / Legal Aide / Special App
☐ WFA ☐ Arr'd ☐ Amended complt ☐ Arr ☐ Plea ☐ IDC ☐ Prob / Sent ☐ Interp
☐ PC977 Waiver ☐ Filed ☐ On file ☐ Bail / OR / SORP ☐ Rect Dr Rpt ☐ FAR ☐ Pretrial Services to Contact Gateway for Assn't
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ PTC ☒ A/B MTC ☐ Bail Reinstated ☐ Bail Exonerated
☐ Priors / Allegations / Enhancements Denied ☐ Further ☐ Jury ☐ CT ☐ Pco/Def Wav Jury ☐ Forfeited ☐ Bond #
☐ TW ☐ TNW ☐ TW / WD ☐ for Sent ☐ Proof of _____ ☐ Reassumption Filed ☐ Forfeiture Set Aside
☐ Ref / Appt PD / ADO ☐ Conflict Decl ☐ Ref'd _____ ☐ \$ _____ Costs Within 30 Days to Court
☐ _____ Relieved _____ Appt'd ☒ Crim Proc Susp ☐ Rein ☐ SORP / OR ☐ Revoked ☐ Reinstated
☐ Hrg on Motion _____ ☐ Doubt Decl Pursuant PC 1368 ☐ BW Ordered \$ _____ ☐ Stayed
☐ Granted ☐ Den ☐ Subm ☐ OC ☒ Subm on rept ☒ Found imposed ☐ BW Set Aside ☐ Recalled ☐ To Issue
☐ Drs. Appointed _____ ☐ Max Term ☐ Committed _____ Other: _____
☐ Prelim Waived ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to _____

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP
☐ Jail / Prison Term of _____
☐ Dismissal / Striking _____ ☐ Subm time of sent _____
☐ Adv ☐ Max Pen ☐ Parole/Probation ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future serious felony prior ☐ PC12021 (aun)

☐ Waives Constt Rights ☐ Written Waiver filed ☐ PC17 REDUCTION ☐ Waives Arbuckle ☐ Harvey Stip _____
☐ COP PLEADS ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enh/s/priors (see below) ☐ Factual Basis found ☐ Findings stated
☐ Notice of Eligibility Filed ☐ DEJ Granted ☐ Rpt to DADS ☐ DEJ Rein ☐ DEJ Term ☐ Guilty Plea Rendered
☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ PROBATION DENIED **FINES/FEES:** PAY TO ☐ Ref to DOR ☐ COURT
☐ Sentenced to _____ State Prison/County Jail ☐ Sent Suspended _____ COUNT \$ _____ + PA \$ _____ ☐ Purs HS11350d

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period
☐ COURT ☐ FORMAL PROBATION GRANTED for _____ Days / Mos / Yrs
☐ Report to APO within _____ Days ☐ Upon Release ☐ Terminated
☐ Commun Altern Program ☐ Perform _____ hrs Volunteer Work
☐ Submit Search / Testing ☐ Educ / Voc Trng / Empl
☐ Not drive w/ valid DL & Ins ☐ DVPO issued / mod / term Exp _____
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☐ No alcohol / drugs or where sold ☐ Restitution _____
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 Other: _____

COUNT \$ _____ + PA \$ _____
 DPF / AIDS \$ _____ + PA \$ _____
 DRF / RF \$ _____ Add'l RF\$ _____ Susp'd PC1202.45
 DEJ \$ _____ CTS PC 2900.5 \$ _____
 AEF \$ _____ TOTAL DUE \$ _____
 ADPA \$ _____ Committed @ \$ _____ / Day
 LAB \$ _____ Consec/Conc to _____
 NC \$ _____ Payments Granted / Modified
 ASF / CFF \$ _____ / No beginning _____
 AR \$ _____ FINE STAYED
 SHELTER \$ _____ Fine Deemed Satisfied ☐ Committed
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☐ Prob Rein / Mod / Term / Revoked / Remains Revoked / Ext to
☐ Original Terms & Conditions Except as Amended Herein
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[illegible]

CTS = ACT + ☐ PC4019 ☐ PC2933.1 = TOTAL DAYS TOTAL TERM 31
☐ Straight time ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ Except ☐ EMP/PSP/WF/ERP/DRP/Co Parole/NP
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☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC-DOC TO TRANSPORT FOR BALANCE OF JAIL

DISTRIBUTION: BLACK - FILED COPY, GREEN - DOC, BLUE - CJIC, PURPLE - DOB/PROBATION, BROWN - DEFENDANT

DISTRIBUTION: BLACK - FILE COPY, GREEN - DOC. BLUE - C.J.C. PURPLE - DOR/PROBATION. BROWN - DEFENDANT

CONFIDENTIAL

MAY NOT BE EXAMINED WITHOUT COURT ORDER

THE PEOPLE

VS

STEVE KENT BADUE

COURT OF APPEAL NUMBER:

CASE NUMBER: CC241061

**MEDICAL / PSYCHIATRIC EXAMINATION UNDER SECTION 1369(a) OF THE
PENAL CODE**

SEALED PAGES 32 THRU 38

4 SUPERIOR COURT
190 WEST HEDDING ST
SAN JOSE, CA 95110

PEOPLE VS. STEVE BADUE
L.K.A. TRANSIENT

JUDGE HON. KEVIN J. MURPHY
REPORTER A-LEVEQUE Not reported
DEF. ATTY. DANTO, RANDY D.A. Steven Dick
CHARGES F(001)PC290(G)(2)

CASE NO. CC241061
CEN 02505160

DATE 01/16/2003 9:00 AM DEPT. 31
01/04/1966 CAC0655444

CLERK J.LIND/G-KELLER BGN149 M
HEARING READINESS CALENDAR
AGENCY SJ-04313-2836 -MARTINEZ
STATUS I-SET -100000 TW N
APO

VIOLATION DATE
02/27/2002

NEXT APPEARANCE

☐ Defendant Present ☒ Not Present ☒ Atty Present *R. Danto* AD (PD) Legal Aide / Special App.
☐ WFA ☐ Arr'd ☐ Amended compit ☐ Arr ☐ Plea ☐ IDC ☐ Prob / Sent ☐ Interp
☐ PC977 Waiver ☐ Filed ☐ On file ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR ☐ Pretrial Services to Contact Gateway for Assm't
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☐ Priors / Allegations / Enhancements Denied ☐ Further ☐ Jury ☐ CT ☐ Ped/Def Wav Jury ☐ Forfeited ☐ Bond #
☐ TW ☐ TNW ☐ TW / WD ☐ for Sent ☐ Reassumption Filed ☐ Forfeiture Set Aside
☐ Ref / Appt PD / ADO ☐ Conflict Decl ☐ Relieved ☐ App'd ☐ Crim Proc Susp ☐ Rein ☐ Costs Within 30 Days to Court
☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ SORP / OR ☐ Revoked ☐ Reinstated
☐ Granted ☐ Den ☐ Subm ☐ OC ☐ Subm on rept ☐ Found ☐ BW Ordered \$ ☐ Stayed
☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Other: ☐ BW Set Aside ☐ Recalled ☐ To Issue
☐ Prelim Waived ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to *dispo arrived @ impasse*

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☐ Jail / Prison Term of ☐ Dismissal / Striking ☐ Subm time of sent

☐ Adv ☐ Max Pen ☐ Parole/Probation ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future serious felony prior ☐ PC12021 (gun)
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☐ Sentenced to ☐ State Prison/County Jail ☐ Sent Suspended ☐ COUNT \$ ☐ PA \$ ☐ Purs HS11350d

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period
☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs
☐ Report to APO within ☐ Days ☐ Upon Release ☐ Terminated
☐ Communit Altern Program ☐ Perform ☐ hrs Volunteer Work
☐ Submit Search / Testing ☐ Educ / Voc Trng / Empl
☐ Not drive w/o valid DL & Ins ☐ DVPO issued / mod / term Exp
☐ Not own/possess deadly weapons ☐ Weapon ordered destroyed
☐ No contact w/victim or family / co-defts unless appr by APO ☐ PC1202.05
☐ No alcohol / drugs or where sold ☐ Restitution
☐ Substance abuse, Domestic Violence, Psychological, Parenting cnsl / prgm
☐ PC296 (DNA) ☐ PC1202.1 (Aids Testing) ☐ Aids Education Program
 Other:

VOP: ☐ Arr'd VOP ☐ Admits/Denies Violation ☐ Court Finds VOP / No VOP
☐ Prob Rein / Mod / Term / Revoked / Remains Revoked / Ext to
☐ Original Terms & Conditions Except as Amended Herein
 Coterminal with ☐ No Further Penalties

JAIL/PRISON ☐ See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons ☐ Referred to VWAC ☐ As Determined APO / CRT

Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn County Jail

Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Total

CTIS = ACT + ☐ PC4019 ☐ PC2933.1 = TOTAL DAYS TOTAL TERM 39

☐ Straight time ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ Except ☐ EMP/PSP/WF/ERP/DRP/Co Parole/NP

☐ Sent Deemed Srvd ☐ Rpt to Local Parole ☐ Adv of ☐ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but ☐ Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay/Surrender Transport to ☐ e ☐ AM/PM or Sooner

REMAINED-BAIL \$ 100,000 ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ DOC TO CONTACT JAC FOR ASSM'T

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC-DOC TO TRANSPORT FOR BALANCE OF JAIL

DISTRIBUTION: BLACK - FILE COPY, GREEN - DOC, BLUE - CJIC, PURPLE - DOR/PROBATION, BROWN - DEFENDANT

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ATTORNEYS FOR THE PEOPLE

FILED

FEB 03 2003

KIRI TORRE
 Chief Executive Officer/Clerk
 Superior Court of CA County of Santa Clara
 BY JOSE OLIVAREZ DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

| | | |
|--|---|---------------------|
| THE PEOPLE OF THE STATE OF CALIFORNIA, |) | NO. CC241061 |
| |) | |
| Plaintiff, |) | PEOPLE'S PROPOSED |
| |) | VOIR DIRE QUESTIONS |
| -vs- |) | |
| |) | |
| STEVE BADUE, |) | |
| |) | |
| |) | |
| Defendant(s). |) | |

The People respectfully request that the court include the following questions in its preliminary questioning of the jury.

1. Ability to Sit as a Juror (Physical)

- a) Does anyone have any problems with either their sight or their hearing which will make it difficult for you to either hear witnesses as they testify or see exhibits which are admitted into evidence?
- b) Is anyone taking any medication which might interfere with their ability to listen to the evidence, perhaps because it causes drowsiness?
- c) Does anyone suffer from any sort of physical problem, such as chronic lower back pain, which would prevent you from sitting the hours which we require as a juror? Obviously, jurors will be permitted to stand and stretch as necessary, but if anyone is suffering from any condition which causes pain, that would interfere with your ability to concentrate and give full consideration

to all of the evidence.

2. Ability to Sit as a Juror (Psychological)

- a) From time to time we have people who are called for jury duty who say that they are unable to participate as a juror, to sit in judgment on another human being or to make a decision resulting in a criminal conviction. Sometimes these people say they are prevented for religious reasons, or other personal reasons. Whatever the reason, which you are certainly entitled to hold, we need to know about that. It is the function of the jury to listen to the evidence and then come to a decision as to whether or not the People have proven their case beyond a reasonable doubt. That is the jury's function. Whether you refer to this as sitting in judgment or not, it is the jury's duty. Now, is there anyone who feels that they cannot participate, for whatever reason?

- b) Will you base your decision in this case on the evidence presented and the law given to you, and not on any sympathy for or prejudice against either the Defendant or the victim?

3. Jury Experience

- a) Has anyone ever sat on a jury before? Was it civil or criminal? When was that? Did the jury come to a verdict? Is there anything about that experience which would make it difficult for you to be a juror in this case?

4. Expert

- a) Does anyone have medical training? In the mental health field?
- b) Does anyone have any legal training, either in law school, or as a paralegal, or as part of another degree they were pursuing? Has anyone worked in a legal office or in some manner connected with the law or its application? It is anticipated that there will be an expert testifying in this case. If you have some particular expertise yourself, you are to set aside what you thought from your own training, and consider the testimony of the experts. In other words, it is not

proper for you to substitute your own opinion for that of the experts. Does everyone understand?

5. Contact with the Criminal Justice System

- a) Does anyone have a close friend or a family member, or you yourself, who has been a witness to, a victim of, or charged with a criminal offense?
- b) If you were a victim, did you report the crime to the police? How did you feel about their response? Was it a Santa Cruz County agency? Could you be a fair juror?
- c) If charged with a criminal offense, was the person treated fairly? Could you be a fair juror?

6. View of Police Officers

- a) How do you view evidence given by police officers? Will you use the same standard in judging the credibility of an officer as you would any other witness?
- b) Is there anyone who would tend to evaluate the testimony of a police officer more critically than any other witness?
- c) Does anyone expect the police to make a "perfect" investigation, or present an investigation like those on television, such as "Columbo" or "Murder, She Wrote"?
- d) Would it matter to you if the defendant was a police officer or a former police officer?

7. Following the law

- a) Does everyone agree that a juror's duty is to follow the law. Does everyone agree to do that, even if the law is not one in which you personally agree.

8. Sentencing

- a) Do you understand that consideration of the possible consequences of this trial, such as sentencing, are not proper matters for you to consider in determining whether or not the defendant is guilty?
 - a. Will each of you agree that sentencing is not to play any part whatsoever in your evaluation of the evidence?
 - b. Is there anyone who could not do so?

9. Single Witness

- 1 a) One of the jury instructions states that the testimony of
2 a single witness is sufficient to prove any fact if you
3 believe the witness. Will you be able to follow that
4 instruction?
- 5 b) If a witness testifies about a particular element of this
6 offense and you believe the witness so that you are
7 convinced of the proof of that element beyond a
8 reasonable doubt, would you require any further proof of
9 that element? Would you require that the People present
10 more witnesses or present documents to corroborate that
11 testimony even though you were already convinced beyond
12 a reasonable doubt that it was proved by the testimony of
13 one witness?
- 14 c) Could you convict on the word of one witness?
- 15 d) Is it understandable that an offense, such as violence
16 against your partner, would not happen in a public area, but
17 would occur in the privacy of your home. If only those
18 incidents that were witnessed by a third party were
19 prosecuted, only a small number of batterers would be held
20 responsible for their actions in a court of law? Could you
21 convict on the word of a victim alone?
- 22 11. Circumstantial Evidence
- 23 a) Is there anyone who could not find a person guilty based
24 on circumstantial evidence alone? If so, why not?
- 25 b) Do you all understand that the law gives the same weight
26 to both direct and circumstantial evidence? Can you all
27 follow the law as it is instructed to you?
- 28 12. Opinion of Defendant
- a) Based on the defendant's age or appearance, would any of
you feel any sympathy, pity, or bias for or against the
defendant?
- b) If the defendant testifies, do any of you feel his
testimony is likely to be more accurate because he is the
accused?
- c) Do you understand that all the witnesses must be judged
using the same standard and that based on each witnesses
testimony you are to determine how much weight to give
his or her statement?

13. Burden of Proof

- 1 a) The burden in this case is on the People. The People
2 must prove each element of the crime charged beyond a
3 reasonable doubt. I will give you further instructions
4 regarding the legal definitions of beyond a reasonable
5 doubt, but in essence it means just what it says: that is
6 a reasonable doubt, a doubt for which you can give a
7 concrete reason. It does not mean beyond all possible
8 doubt or beyond a shadow of a doubt, or any of those
9 other phrases which you may have heard on television or
10 elsewhere. A burden such as that would be impossible to
11 meet; it is simply too high and is not the standard in
12 our system of justice. Do you all understand that? Do
13 you understand why that is? Everything in human affairs
14 is subject to some doubt. That is not what we mean here.
- 15 b) Sometimes we have people who say that could not vote for
16 a verdict of guilt unless they saw something with their
17 own two eyes. Well, let me first say that that is an
18 impossibility, because if you saw a crime then you would
19 be a witness in this trial, and not eligible to be a
20 juror, so that would never be possible. Do you
21 understand?
- 22 c) Now, beyond a reasonable doubt also does not mean a mere
23 conflict in the evidence. Frequently, there are cases
24 where one side claims one thing and the other side claims
25 the other. If the mere fact of a conflict equaled beyond
26 a reasonable doubt, then no case would ever be decided.
27 It is your job to consider the evidence, evaluate the
28 conflict, if there is one, and decide who is telling the
truth. As a juror, you have the right to disregard
testimony, if you feel it is untruthful, or unsupported
by other evidence, or simply not believable.
- Does everyone understand that when there is a
conflict, it would be your job as a juror to resolve that
conflict, to the extent that you are able?
- Does everyone understand that the simple fact that
there may be a conflict in the evidence does not
automatically equal reasonable doubt?


- In other words, you weigh and consider and evaluate all of the evidence.

14. Sex Registration

- a) How many of you have heard of Megan's Law? What is your understanding of the law?
- b) Do you think that it should be a public record that certain people are required to register as a sex offender?
- c) Has anyone ever used Megan's Law to see if there are sex offender's in their neighborhood?
- d) During the course of the trial you may not find out why the defendant has to register as a sex offender. Does anyone feel they must know why the defendant has to register?
- e) Does anyone feel that the registration law should exist at all? Should it be abolished?
- f) There are very stringent requirements for sex registrants. Can you convict the defendant even if you feel the law is too stringent?
- g) Does anyone know a person who has to register as a sex offender?
- h) The defendant must willfully fail to register, which is not intentionally fail. This crime is a general intent crime, which means the person does not have to intentionally not register. If the defendant knew he had to register, and forgot, or failed to register he is guilty of the crime. Does anyone feel this definition of Willful is too stringent? Will you be able to follow the law as read to you by the Judge?

Dated: DECEMBER 3, 2002

Respectfully submitted,
GEORGE KENNEDY
DISTRICT ATTORNEY


STEVEN DICK
DEPUTY DISTRICT ATTORNEY

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FILED

FEB 03 2003

KIRI TORRE
 Chief Executive Officer
 Superior Court of the County of Santa Clara
 BY JOSE OLIVAREZ DEPUTY

Attorneys for The People

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF SANTA CLARA

| | | |
|--|---|--------------------|
| THE PEOPLE OF THE STATE OF CALIFORNIA, |) | CASE NO.: CC241061 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | TRIAL BRIEF |
| STEVE BADUE, |) | |
| |) | DATE: 2-3-03 |
| |) | TIME: 9:00 A.M. |
| Defendant(s). |) | DEPT: 24 |
| |) | |

I
STATEMENT OF FACTS

The defendant must register pursuant to Penal Code section 290 due to a prior conviction for violating Penal Code 314, Indecent Exposure. He has a prior conviction for violating Penal Code section 290 from 1998.

In 2000 the defendant was convicted of violating Health and Safety Code section 11350, Possession of a Controlled Substance. He was sentenced to serve 16 months in the Department of Corrections.

George W. Kennedy
 District Attorney
 County of Santa Clara
 San Jose, California 95110

5441 REV 1/91

1 The defendant was released from custody but did not do well on parole. He was arrested on
 2 June 28, 2001 on a parole violation and was given a six month eligible sentence. The defendant was
 3 released from custody on October 10, 2002 and was released to Santa Clara County. The defendant
 4 had another warrant issued for his arrest because he did not report to his parole officer. He also did
 5 not register pursuant to Penal Code section 290 within 5 days of his release from custody. He further
 6 failed to complete his annual registration pursuant to Penal Code section 290 on his birthday,
 7 January 4.

8 The defendant was eventually arrested on March 6, 2002 in Stockton, California. Upon his
 9 arrest the defendant provided a false name and birthday to Officer Keo of the Stockton Police
 10 Department. The defendant was charged and convicted out of San Joquin County for violating Penal
 11 Code section 148.9, providing false information to a peace officer.

12 The defendant is now accused of violating Penal Code section 290, Failing to Register as a
 13 Sex Offender with a prior conviction of Failing to Register as a Sex Offender, due to missing his
 14 annual update. He also is accused of suffering a prison prior in violation of Penal Code section
 15 667.5(b).
 16

17 **II**
 18 **WITNESS LIST**

- 19 1. Officer Keo, Stockton Police Department
 20 2. Phil Thompson, Stockton Police Department
 21 3. Michael Valverde, San Jose Police Department, Central Identification Unit
 22 4. Richard Peretti, San Jose Police Department, Central Identification Unit
 23 5. Francis Gallegos, San Jose Police Department
 24 6. Raul Martinez, San Jose Police Department
 25 7. Theresa McDaniels, Parole Officer
 26

III.DOCUMENTARY EVIDENCE

1. Certified Booking Sheets
2. 969B Packet
3. Fingerprint Identification Packet
4. Certified SS-1802 Form
5. Certified VCIN
6. Certified Prior Conviction

IV.MEMORANDUM OF POINTS AND AUTHORITIESA. DEFENDANT CAN BE IMPEACHED WITH HIS PRIOR CONVICTIONS

Should the defendant elect to testify, the prosecution may seek to introduce evidence of Defendant's prior convictions to impeach his credibility. (Evidence Code section 785-787) The defendant was convicted of the following crime of moral turpitude: violating Penal Code section 314, Indecent Exposure (see *People v. Ballard* (1993) 13 Cal.App.4th 687, 16 Cal.Rptr.2d 624).

The defendant also provided false information to a peace officer in 2002 and was convicted of violating Penal Code section 148.9. The underlying facts of this offense are admissible for two purposes. First, to show the defendant willfully failed to register. The defendant lied to the officer because he had absconded and was hiding from his parole officer. He did not register for the same reason. Second to attack the defendant's credibility.

B. THE DEFENDANT SHOULD BE PROHIBITED FROM ARGUING THAT THE CURRENT CASE IS BARRED BY DOUBLE JEOPARDY OR COLLATERAL ESTOPPEL

During informal discussions at a previous trial setting date it was suggested that the defendant believed that his case was barred due to Double Jeopardy concerns due to his conviction in San Joaquin County. The People have obtained a copy of the certified prior arising out of the defendant's conviction

1 and it appears he was never charged with violating Penal Code section 290. Therefore, Double Jeopardy
 2 would not apply.

3 The defendant also suggested that he admitted a Violation of Probation in San Joaquin County
 4 and that Double Jeopardy should also be barred from prosecution for violating Penal Code section 290
 5 out of Santa Clara County. The People have been unable to obtain any confirmation that the defendant
 6 did have a Violating of Probation due to failing to register. Assuming this did take place, Double
 7 Jeopardy, and Collateral Estoppel, would not bar prosecution of a new criminal offense. The United
 8 States Supreme Court, California Supreme Court, and Appellate Courts have all held that due to the
 9 procedural nature of Violation of Probations and for public policy concerns, Double Jeopardy and
 10 Collateral Estoppel do not bar prosecution of new criminal offense after a person has been found to
 11 violate his or her probation based on the facts of the new case. (*Johnson v. United States* (2000) 529 U.S.
 12 694, 120 S.Ct. 1795, 146 L.Ed. 727; *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 795 P.2d 1223, 272
 13 Cal.Rptr. 767; *Chamblin v. Municipal Court* (1982) 130 Cal.App.3d 115, 181 Cal.Rptr. 636; *People v.*
 14 *Carter* (1975) 48 Cal. App. 3d 369, 121 Cal.Rptr. 677).

15 **C. EVIDENCE SHOWING THE DEFENDANT WILLFULLY FAILED TO REGISTER IS**

16 **ADMISSIBLE**

17 One of the elements of Penal Code section 290 is that the defendant must willfully have failed
 18 to register as a sex offender. In order to prove this element the people intend to call the defendant's
 19 parole officer to testify that the defendant was released from prison in October, 2002 and that he never
 20 reported to his parole officer. This parole violation provided the defendant incentive to not register. He
 21 did not want law enforcement to find him so he would not have to go back to prison.

1 The People also intend to call Officer Keo of the San Joaquin Police Department to testify that
2 the defendant lied to the officer about his name and date of birth.

3 **D. THE COURT MAY TAKE JUDICIAL NOTICE OF IT'S FILE**
4

5 The trial court may take judicial notice of it's file. (Evidence Code sections 450, 451, 452).

6 The People will ask the court to take Judicial Notice of two items. The first is that the defendant
7 stated on his arraignment that his name is Steve Badue with a date of birth of January 4, 1966,

8 Second, that the a violation of Penal Code section 314.1 requires a person to register for life
9 pursuant to Penal Code section 290.
10

11 **E. THE DEFENDANT SHOULD NOT BE ALLOWED TO ARGUE THAT THE CRIME**
12 **SHOULD BE MISDEMEANOR.**

13 Penal Code section 290 (g)(2) with a prior conviction for violating Penal Code section 290 is
14 an irreducible felony. The defendant should not be allowed to argue that the crime should be reduced
15 to a misdemeanor.
16

17 **F. REQUESTED JURY INSTRUCTIONS**
18

19 The People submit the following proposed jury instruction.
20

21 The Defendant is accused in Count ____ of the Information of having violated Penal Code
22 section 290(G)(2), a felony. Every person who, having been previously convicted of a felony sex
23 offense, namely, Indecent Exposure, and previously was convicted of Failing to Register as a Sex
24 Offender, willfully fails to inform in writing, within 5 working days of his birthday, to update his
25 registration with the chief of police of the city in which he temporarily resided or was located, is
26 guilty of violating Penal Code section 290(g)(2) of the Penal Code, a felony.
27
28